



2012 SDRS Proposed Legislation



An Act to authorize the establishment of a designated Roth contribution program within the SDRS deferred compensation plan.

THE ISSUES

The Small Business Jobs Act of 2010 authorized governmental 457(b) plans (also known as deferred compensation plans such as the SDRS Supplemental Retirement Plan (SRP)) to offer Roth contribution programs. Any contributions into Roth designated accounts are made with after-tax dollars and do not reduce taxable income. However, the funds invested grow without taxes on gains or interest if certain criteria are met. Currently, there is no provision allowing for the establishment of a Roth contribution program in the SDRS deferred compensation plan.

THE SOLUTION

Amend the deferred compensation plan to authorize the establishment of a Roth contribution program, thereby allowing employees to contribute to designated Roth accounts. This elective deferral provides SDRS members with another vehicle to grow their personal retirement savings and/or provides them with an additional financial planning tool.

Legislative Summary

- ❖ Roth Designated Accounts in the 457 Plan
 - Legislation authorizes the board to establish a Roth contribution program within the deferred compensation plan and to establish details of the program by rules in accordance with federal law
 - If a distribution is qualified, both designated Roth contributions and earnings are distributed tax free. Federal law provides that a qualified distribution must meet two conditions:
 1. Contributions made to the Roth elective deferral account must have remained invested for at least a 5-year period; and
 2. The distribution must be made on or after age 59½ or due to death or disability.

An Act to allow for the establishment of an alternative benefit enhancement methodology within the South Dakota Retirement System.

THE ISSUE

SDRS withstood the economic downturn in 2008 and 2009 because of outstanding investment returns in the years prior to 2008 and the fiscally conservative practices of setting aside funds to protect the System. SDRS seeks to continue to strengthen the long-term fiscal sustainability of SDRS.

THE SOLUTION

Authorize the Board of Trustees to establish an alternative benefit enhancement methodology to make SDRS more sustainable while mitigating risk to the System.

Considering the volatility of the capital markets, the SDRS Board of Trustees is focusing on ways to make SDRS more sustainable over the long-term and better balance risks in the plan. This enabling legislation would provide the authority to the Board of Trustees to explore and design alternative benefit enhancement methods. SDRS already has several hybrid features within the plan and this legislation would give SDRS more alternatives for benefit enhancements in the future. While the details are not fully defined yet, this legislation would allow SDRS to explore the possibility of providing both formula based benefits and account based benefits under the total SDRS umbrella. Such a design would grow additional benefits when the market moves up, but would also mitigate risk by contracting when markets fall. In short, this will add another benefit enhancement alternative for the Board of Trustees to consider in the future.

Legislative Summary

- ❖ **Alternative Benefit Enhancement Methodology**
 - Legislation authorizes the board to establish an alternative benefit enhancement methodology
 - Any alternative methodology would be based on investment performance and include the mitigation of risk
 - No funding of any alternative benefit enhancement methodology would occur without prior legislative approval
 - Membership eligibility criteria and any allocations, credits, reductions, eliminations, distributions, and other operational provisions relating to the alternative benefit enhancement methodology will be based on standards and procedures established by the board by administrative rules

An Act to revise certain provisions relating to the South Dakota Retirement System, the South Dakota deferred compensation plan, and the South Dakota special pay retirement program.

THE ISSUE

The current SDRS law would benefit from certain revisions and clarifications.

THE SOLUTION

Revise and clarify SDRS statutes.

Current Provisions	Proposed Changes
<ul style="list-style-type: none"> • SDCL 3-12-47(35) defines firemen as municipal firemen • SDCL 3-12-47(55) defines policemen as an employee of a municipality • Use of gender specific terms • SDCL 3-12-47(22) excludes from the definition of contributory service the purchase of prior service credit for public service not covered by the plan • SDCL 3-12-62.1 incorrectly cites 3-12-47(50) & 3-12-143 incorrectly cites 3-12-47(42) • SDCL 3-12-72.1 limits the use of the SDRS Member Trust fund to the benefit of members and beneficiaries and to reasonable administrative expenses • SDCL 3-12-82 provides that retired members who returned to work between 2004 and 2010 and who remain employed for at least three years shall receive an additional retirement benefit • SDCL 3-13-55 has no definition of plan year for the Supplemental Retirement Plan • SDCL 3-13A-15 is silent regarding payment of benefits in the special pay retirement program if the beneficiary has died • SDCL 3-6A-38.2 does not specify that that employer contributions shall be made on reinstatement pay for terminated employees 	<ul style="list-style-type: none"> • Revise the definition of firemen to include all full-time firefighters • For consistency and to remove redundancy, remove the term, municipal, where it modifies policemen or police officer • Convert the terms, firemen, policemen, and patrolman in SDCL ch. 3-12 to firefighter, police officer, and patrol officer • Replace gender specific terms, chairman and vice-chairman, with the terms, chair and vice chair • Clarify that purchases of nonqualified permissive service credit pursuant to SDCL 3-12-84.2 are also not contributory service as defined in SDCL 3-12-47(22) • Correct cross references to subdivisions of SDCL 3-12-47 in SDCL 3-12-62.1 & 3-12-143 to 3-12-47(49) and 3-12-47(41), respectively • Provide that money in the SDRS Member Trust Fund may be used to correct overpayments made by employers • Clarify that retired members who returned to work between 2004 and 2010 and who remain employed for at least three years have an option to refund rather than receive an additional retirement benefit • Define the term, plan year, as a calendar year in SDCL 3-13-55 • Clarify that if the beneficiary has died, the benefits of the special pay retirement program shall be paid in the same manner as if there is no beneficiary designated • Clarify that employer contributions shall be made on reinstatement pay for terminated employees in SDCL 3-6A-38.2